



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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www.deq.virginia.gov

L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4000
1-800-592-5482

March 5, 2008

Mr. M. Fred Strauss, P.G.
Director, Environmental Programs
East Coast Transport, Inc.
1044 N. 115th Street, Suite 400
Omaha, NE 68154

RE: Joint Permit Application Number 01-1282
East Coast Transport Inc. Water Withdrawal, Buckingham County, Virginia
Permit Modification

Dear Mr. Strauss:

Pursuant to the Virginia Water Protection (VWP) Permit Program Regulation 9 VAC 25-210-10 et seq., § 401 of the Clean Water Act Amendments of 1977, and Public Law 95-217, the Department of Environmental Quality (DEQ) has enclosed the original VWP individual permit for the modification of the permit for the intake on the James River.

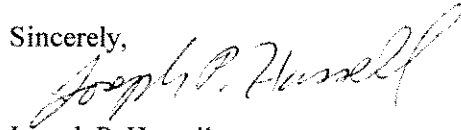
As provided by Rule 2A:2 of the Supreme Court of Virginia, you have 30 calendar days from the date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this decision by filing a notice of appeal in accordance with the Rules of the Supreme Court of Virginia with the Director, Department of Environmental Quality. In the event that this decision is served on you by mail, three days are added to that period. Refer to Part 2A of the Rules of the Supreme Court of Virginia for additional requirements governing appeals from administrative agencies.

Alternatively, any owner under §§62.1-44.16, 62.1-44.17, and 62.1-44.19 of the State Water Control Law aggrieved by any action the board has taken without a formal hearing, or by inaction of the board, may demand in writing a formal hearing of such owner's grievance, provided a petition requesting such hearing is filed with the board. Said petition must meet the requirements set forth in the board's Procedural Rule Number 1 (9 VAC 25-230-130 B). In cases involving actions of the board, such petition must be filed within 30 calendar days after notice of such action is sent to such owner by certified mail.

Mr. Fred Strauss
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If you have any questions, please contact me at (804) 698-4072.

Sincerely,

A handwritten signature in cursive script, reading "Joseph P. Hassell". The signature is written in dark ink and is positioned above the printed name and title.

Joseph P. Hassell
Environmental Program Manager

Enclosures: Permit Cover Page, Part I - Special Conditions, Part II - General Conditions



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VWP Permit No. 01-1282

Effective Date: December 27, 2001

Prior Modifications: Feb 8, 2002, Sept. 8, 2005, May 1, 2006

Current Modification: March 6, 2008

Expiration Date: December 27, 2016

VIRGINIA WATER PROTECTION PERMIT ISSUED PURSUANT TO STATE WATER CONTROL LAW AND SECTION 401 OF THE CLEAN WATER ACT

Based upon an examination of the information submitted by the owner and in compliance with Section 401 of the Clean Water Act as amended (33 USC 1251 et seq) and the State Water Control Law and regulations adopted pursuant thereto, the Board has determined that there is a reasonable assurance that the activity authorized by this permit, if conducted in accordance with the conditions set forth herein, will protect instream beneficial uses and will not violate applicable water quality standards. The Board finds that the effect of the impact together with other existing or proposed impacts, will not cause or contribute to a significant impairment of state waters or fish and wildlife resources.

Permittee: East Coast Transport, Inc.

Address: 1044 North 115th Street, Suite 400, Omaha, Nebraska 68154

Activity Location: On the James River 4500 feet downstream of the Route 15 bridge in Buckingham County (intake) and along a pipeline with stream crossings of Holman, Martins, Raccoon, South Fork Cunningham and North Fork Cunningham Creeks and small tributaries thereof along a route from the James River north along Route 15 until the intersection of the Dominion Virginia Power right of way to the Tenaska Virginia Partners plant in Fluvanna County.

Activity Description: The construction and operation of a water supply intake and raw water transmission pipeline for industrial water supply.

The authorized discharge shall be in accordance with this cover page, Part I - Special Conditions,
Part II - General Conditions.

Allen Blumsky
Director, Division of Water Quality

3/5/08
Date

SPECIAL CONDITIONS

A. Overall project conditions.

1. This permit authorizes the construction and operation of a water supply intake on the James River and the associated raw water transmission pipeline as indicated in the Joint Permit Application dated July 11, 2001 and supplemental materials provided by East Coast Transport, Inc., hereafter, "ECTI" dated August 8, 2001, September 13, 2001, September 22, 2001 and October 8, 2001, November 18, 2005, January 10, 2006, January 9, 2008 and deemed complete on January 9, 2008.
2. Any additional impacts to State waters associated with this project will require modification of this permit and may require mitigation.
3. This permit expires 15 years from its date of issuance.
4. The construction or work authorized by this VWP permit shall be executed in a manner so as to minimize any adverse impact on instream beneficial uses as defined in § 62.1-10 (b) of the Code.
5. No activity may substantially disrupt the movement of aquatic life indigenous to the water body, including those species which normally migrate through the area. Culverts placed in streams must be installed to maintain low flow conditions. No activity may cause more than minimal adverse effect on navigation. Furthermore the activity must not impede the passage of normal or expected high flows and the structure or discharge must withstand expected high flows.
6. Wet or uncured concrete shall be prohibited from entry into flowing surface waters.
7. All fill material shall be clean and free of contaminants in toxic concentrations or amounts in accordance with all applicable laws and regulations.
8. Erosion and sedimentation controls shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992. These controls shall be placed prior to clearing and grading, and maintained in good working order to minimize impacts to surface waters to the maximum extent practicable. These controls shall remain in place until the area stabilizes.
9. Any exposed slopes and streambanks must be stabilized immediately upon completion of the utility line crossing of each water body. All denuded areas shall be properly stabilized in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.

10. All construction, construction access (e.g., cofferdams, sheetpiling, and causeways) and demolition activities associated with this project shall be accomplished in a manner that minimizes construction or waste materials from entering surface waters to the maximum extent practicable, unless authorized by this VWP permit.
11. No machinery may enter flowing waters, unless authorized by this VWP permit.
12. Heavy equipment in temporarily-impacted wetland areas shall be placed on mats, geotextile fabric, or other suitable measures, to minimize soil disturbance to the maximum extent practicable.
13. All nonimpacted surface waters within the project limits that are within 50 feet of any clearing, grading, and/or filling activities shall be clearly flagged or marked for the life of the construction activity within that area. The permittee shall notify all contractors that these marked areas are surface waters where no excavation activities are to occur.
14. Temporary disturbances to wetlands during construction shall be avoided and minimized to the maximum extent practicable. All temporarily disturbed wetland areas shall be restored to preconstruction conditions and planted or seeded with appropriate wetland vegetation according to cover type (emergent, scrub-shrub or forested). The permittee shall take all appropriate measures to promote revegetation of temporarily disturbed wetland areas with wetland vegetation by the second year post-disturbance. Any temporary fills must be removed in their entirety and the affected area returned to their preexisting elevation.
15. All materials (including fill, construction debris, and excavated and woody materials) temporarily stockpiled in wetlands shall be placed on mats or geotextile fabric, immediately stabilized to prevent entry into state waters, managed such that leachate does not enter state waters, and completely removed within 30 days following completion of that construction activity. Disturbed areas shall be returned to original contours, stabilized within 30 days following removal of the stockpile, and restored to the original vegetated state.
16. The permittee shall employ measures to prevent spills of fuels or lubricants into state waters.
17. Immediately downstream of the construction area, Water Quality Standards (9 VAC 25-260-5 et seq.) shall not be violated as a result of the construction activities.
18. Instream construction activities shall take place behind a non-erodible coffer dam during low flow conditions. No instream work shall take place between May 15 and July 31.
19. At least seven days prior to commencement of instream work on the intake, the permittee shall give notice to DEQ and provide signs at the Howardsville Landing, the Scottsville Landing, and the Hardware River Wildlife Management Area Landing to warn boaters of the instream work at the intake site near Bremono Bluff.

20. No construction of the new intake is allowed until:

- a. a mussel study approved in design by the Department of Game and Inland Fisheries has been completed,
- b. the results of the study are submitted in writing to the Department of Game and Inland Fisheries,
- c. any and all recommendations of DGIF regarding the relocation of mussels have been followed and completed, and,
- d. DEQ has received written approval from the Department of Game and Inland Fisheries that the permittee has complied with this special condition to the satisfaction of the Department of Game and Inland Fisheries.

21. The maximum intake screen opening shall not exceed 1.0 millimeter and the through slot velocity shall not exceed 0.25 feet per second.

B. Utility line construction: The permittee must comply with the following conditions for any stream crossing not directionally drilled.

1. All utility line work in surface waters shall be performed in a manner that minimizes disturbance, and the area must be returned to its original contours and stabilized, unless authorized by this VWP general permit.
2. Material resulting from trench excavation may be temporarily sidecast into wetlands, not to exceed 90 days, provided the material is not placed in a manner such that it is dispersed by currents or other forces.
3. The trench for a utility line cannot be constructed in a manner that drains wetlands (e.g., backfilling with extensive gravel layers creating a french drain effect.).
4. No instream work may be conducted from May 15 through July 31.

C. Water Withdrawal Conditions:

1. The maximum pumping capacity in gallons per minute shall be governed and maximum annual withdrawal in millions of gallons shall be regulated by Schedule A. The fact that the permittee has constructed two intakes at the same site does not increase the water withdrawal limits. The combined withdrawal from the two intakes shall be less than or equal to the limits in schedule A.
2. The permittee shall monitor stream flow on the James River by monitoring provisional data from the James River at Scottsville gage.
3. Whenever the previous day's average daily flow of the James River at Scottsville is greater than 2000 cfs, ECTI shall monitor the provisional instantaneous flow not less than

once every 24 hours when pumping operations are ongoing. Such a reading will govern pumping operations for a period of not more than 24 hours.

4. Whenever the previous day's average daily flow of the James River at Scottsville is less than 2000 cfs, ECTI shall monitor the provisional instantaneous flow not less than once every 6 hours when pumping operations are ongoing. Such a reading will govern pumping operations for a period of not more than 6 hours.

5. The maximum daily withdrawal shall be governed by the following equation.

$$V = \text{SUM} [QA_1 * t_1 + QA_2 * t_2 + \dots QA_n * t_n]$$

Where:

V equals the allowable volume of water to be pumped in gallons, and,

QA equals the allowable pumping rate from Schedule B in gallons per minute, and,

t is the time period in minutes that applies to any particular gage reading, and,

n is the number of gage readings in a day.

Note: The time period, t, may govern pumping operations for up to 1440 minutes and the number of gage readings, n, may equal only one reading per day when the previous day's average streamflow on the James River at Scottsville exceeds 2000 cfs.

Note: The time period, t, may equal up to 360 minutes and the number of gage readings, n, may be as few as four readings per day if the previous day's average streamflow of the James Rivers at Scottsville is less than 2000 cfs.

The permittee may monitor streamflow on a more frequent basis than once every six hours at the permittee's discretion.

6. The issuance of a VWP permit does not convey any property rights in either real or personal property, or any exclusive privileges.

7. The permittee shall file an annual monitoring report by January 31st of each year to demonstrate compliance with special conditions C.1 through C. 5 and C.14.

8. The permittee shall install a totalizing flow meter to allow the permittee to read the volume of water withdrawn from the James River.

9. In order to determine the maximum day water demand of the owner of the Bear Garden Generating Station, ECTI will install a totalizing meter or meters that will measure the

volume of water delivered to Bear Garden Generating Station each day. The meter will record the total volume of water supplied by ECTI, Inc. and the water provided by Central Virginia Water Corp. each day. The meter(s) will be read at the same time each day so that each day's reading represents the volume of water delivered to the owner of the Bear Garden Generating station in the previous 24 hours. The first required reading of the daily volume of water delivered to the Bear Garden Generating Station is at the end of the first day of commercial operation.

10. In order to determine actual maximum daily use of the Bear Garden Generating Station in the production of electricity, as a condition of water sales from ECTI to the owner of the Bear Garden Generating Station, ECTI shall require that the owner of the Bear Garden Generating Station measure each day, at the same time that ECTI records the total volume of water delivered to the Bear Garden Generating Station, the volume of water stored on site at the Bear Garden Generating Station. Reductions in on site water storage volume from the previous reading 24 hours earlier will be added to the total volume of water delivered to determine the previous day's water use by the owner of the Bear Garden Generating Station. Increases in on site water storage volume from the previous reading 24 hours earlier will be subtracted from the total volume of water delivered the previous day to the owner of the Bear Garden Generating Station.

11. ECTI shall notify DEQ of the day that commercial operations for the Bear Garden Generating Station begin, within one week after the commencement of those operations.

12. One year (365 days) after the start of commercial operation for the Bear Garden Generating Station, ECTI shall prepare for DEQ a report that shows for each day in the previous 365 days, the volume of water used by the owner of the Bear Garden Generating Station. The report shall include for each day, the date, the volume of water delivered to Bear Garden Generating Station by ECTI and Central Virginia Storage Corp. in the previous 24 hours and the change in storage, if any, in the volume of water stored on site at the Bear Garden Generating Station. The report is due at DEQ within one week of the first anniversary of commercial operations.

13. As a condition of water sales from ECTI to the owner of the Bear Garden Generating Station, ECTI shall require that the water is to be used for the production of electricity at the generating station and for the potable water needs of the employees of the Bear Garden Generating Station and cannot be used to irrigate the grounds of the Bear Garden Generating Station.

14. The annual monitoring report shall contain the following information for each day: the date, the streamflow measurement(s) of James River at Scottsville in cfs, the time(s) of the measurement(s), the maximum allowed daily withdrawal as computed from Special Condition C.5, the actual withdrawal expressed in million gallons as read from the totalizing flow meter.

15. Within 90 days of permit issuance the permittee shall provide to DEQ a monitoring plan that describes the following:

- a. What measures ECTI will put in place to estimate the streamflow in the James River at Scottsville in the event the James River at Scottsville gage is damaged, disabled or discontinued.
- b. A monitoring report data table for use in recording and reporting compliance with the water withdrawal conditions of this permit, pursuant to condition C.9.
- c. How ECTI will determine the previous day's average flow pursuant to condition C.3 and C.4.

16. If East Coast Transport, Inc. is not using water for beneficial uses in the amounts authorized by the permit by December 27, 2016, then the Maximum Pumping Rate and Maximum Annual Withdrawal authorized by Schedule A will automatically be reduced to reflect actual use. For the purposes of this permit, under special condition C. 16, the final permit limit for the maximum pumping rate and maximum annual withdrawal on December 27, 2016 will be one of the limits identified under demand conditions I, II, III, IV, V or VI for which water use has actually taken place for a beneficial use. DEQ reserves the right to reduce the maximum pumping rate and maximum annual withdrawal of demand conditions II, III, or VI if, based upon the information provided pursuant to conditions C9, C10 and C12, the reported maximum daily use of the Bear Garden Generating Station is less than the water use provided by this permit. In the case that DEQ elects to consider reducing the maximum annual withdrawal, the owner of the Bear Garden Generating Station shall provide additional information regarding the planned future operation for consideration when establishing a reduced maximum annual withdrawal. Water service under contract between ECTI and a customer but never applied to a beneficial use prior to December 27, 2016 does not establish an actual use. Beneficial use does not include the pumping of water for the purposes of establishing an actual use. Beneficial use for any particular customer means water applied to the purposes identified on item 9 of the EAST COAST TRANSPORT INC., APPLICATION FOR WATER SERVICE ON and on item 2 of EAST COAST TRANSPORT INC., CONTRACT FOR WATER SERVICE. The exercise of a maximum pumping rate authorized under column II of Schedule A, automatically authorizes the corresponding maximum annual withdrawal from column IV of schedule A, regardless of whether the full annual volume of water is used in that calendar year.

EAST COAST TRANSPORT INC., shall notify DEQ each time a customer commences to exercise their right to purchase water from ECTI. Such notification shall include the date water was actually first delivered to the customer and a copy of the EAST COAST TRANSPORT, INC. CONTRACT FOR WATER SERVICE for that customer.

Schedule A

Maximum Pumping Rate and Maximum Annual Withdrawal

Demand Condition	Maximum Pumping Rate in Gallons Per Minute $Q_{\max\text{-gpm}}$	Maximum Pumping Rate in Cubic Feet Per Second $Q_{\max\text{-cfs}}$	Maximum Annual Withdrawal in Billion Gallons
I	5900	13.2	2.10
II	5900	13.2	1.83
III	11800	26.3	3.93
IV	6700	14.9	2.39
V	6700	14.9	2.09
VI	12600	28.1	4.21

Demand Condition Definitions

- I Tenaska Virginia Partners, L. P. is the sole customer of ECTI.
- II The owner of Bear Garden Generating Station is the sole customer of ECTI.
- III Tenaska Virginia Partners, L. P. and the owner of Bear Garden Generating Station are the sole customers of ECTI
- IV Tenaska Virginia Partners, L. P. and an as yet unidentified customer(s) of up to 1.1 million gallons per day are the customers of ECTI.
- V The owner of Bear Garden Generating Station and an as yet unidentified customer(s) of up to 1.1 million gallons per day are the customers of ECTI.
- VI Tenaska Virginia Partners, L. P. and the owner of Bear Garden Generating station and an as yet unidentified customer(s) of up to 1.1 million gallons per day are the customers of ECTI

Schedule B

Allowable Pumping Rates (Q_a) as a Function of Streamflow at Scottsville and Time of Year

Time of Year	Stream Flow @ Scottsville Q_s in CFS	Allowable Pumping Rate Q_a in GPM
Nov. 1 - June 30	Q_s is $> 1161 + Q_{\max\text{-cfs}}$	$= Q_{\max\text{-gpm}}$
Nov. 1 - June 30	$1161 + Q_{\max\text{-cfs}} \geq Q_s \geq 856 + (0.50 \times Q_{\max\text{-cfs}})$	$= 0.50 \times Q_{\max\text{-gpm}}$
Nov. 1 - June 30	Q_s is $< 856 + (0.50 \times Q_{\max\text{-cfs}})$	Zero
July 1 - Oct. 31	Q_s is $> 822 + Q_{\max\text{-cfs}}$	$= Q_{\max\text{-gpm}}$
July 1 - Oct. 31	$822 + Q_{\max\text{-cfs}} \geq Q_s \geq 568 + (0.50 \times Q_{\max\text{-cfs}})$	$= 0.50 \times Q_{\max\text{-gpm}}$
July 1 - Oct. 31	Q_s is $< 568 + (0.50 \times Q_{\max\text{-cfs}})$	Zero

$Q_{\max\text{-gpm}}$ the maximum pumping rate in gallons per minute is taken from Schedule A, column 2.

$Q_{\max\text{-cfs}}$ the equivalent maximum pumping rate in cubic feet per second is taken from Schedule A, column 3.

Part II – General Conditions

A. Duty to Comply

The permittee shall comply with all conditions of the VWP permit. Nothing in the VWP permit regulations shall be construed to relieve the permittee of the duty to comply with all applicable federal and state statutes, regulations and prohibitions. Any VWP permit violation is a violation of the law, and is grounds for enforcement action, VWP permit termination, revocation, modification, or denial of an application for a VWP permit extension or reissuance.

B. Duty to Cease or Confine Activity

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the activity for which a VWP permit has been granted in order to maintain compliance with the conditions of the VWP permit.

C. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any impacts in violation of the permit which may have a reasonable likelihood of adversely affecting human health or the environment.

D. VWP Permit Action

1. A VWP permit may be modified, revoked and reissued, or terminated as set forth in 9 VAC 25-210 et seq.
2. If a permittee files a request for VWP permit modification, revocation, or termination, or files a notification of planned changes, or anticipated noncompliance, the VWP permit terms and conditions shall remain effective until the request is acted upon by the board. This provision shall not be used to extend the expiration date of the effective VWP permit. If the permittee wishes to continue an activity regulated by the VWP permit after the expiration date of the VWP permit, the permittee must apply for and obtain a new VWP permit or comply with the provisions of 9 VAC 25-210-185 (VWP Permit Extension).
3. VWP permits may be modified, revoked and reissued or terminated upon the request of the permittee or other person at the board's discretion, or upon board initiative to reflect the requirements of any changes in the statutes or regulations, or as a result of VWP permit noncompliance as indicated in the Duty to Comply subsection above, or for other reasons listed in 9 VAC 25-210-180 (Rules for Modification, Revocation and Reissuance, and Termination of VWP permits).

E. Inspection and Entry

Upon presentation of credentials, any duly authorized agent of the board may, at reasonable times and under reasonable circumstances:

1. Enter upon any permittee's property, public or private, and have access to, inspect and copy any records that must be kept as part of the VWP permit conditions;
2. Inspect any facilities, operations or practices (including monitoring and control equipment) regulated or required under the VWP permit; and
3. Sample or monitor any substance, parameter or activity for the purpose of ensuring compliance with the conditions of the VWP permit or as otherwise authorized by law.

F. Duty to Provide Information

1. The permittee shall furnish to the board any information which the board may request to determine whether cause exists for modifying, revoking, reissuing or terminating the VWP permit, or to determine compliance with the VWP permit. The permittee shall also furnish to the board, upon request, copies of records required to be kept by the permittee.
2. Plans, specifications, maps, conceptual reports and other relevant information shall be submitted as required by the board prior to commencing construction.

G. Monitoring and Records Requirements

1. Monitoring of parameters, other than pollutants, shall be conducted according to approved analytical methods as specified in the VWP permit. Analysis of pollutants will be conducted according to 40 CFR Part 136 (2000), Guidelines Establishing Test Procedures for the Analysis of Pollutants.
2. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
3. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart or electronic recordings for continuous monitoring instrumentation, copies of all reports required by the VWP permit, and records of all data used to complete the application for the VWP permit, for a period of at least three years from the date of the expiration of a granted VWP permit. This period may be extended by request of the board at any time.
4. Records of monitoring information shall include:
 - a. The date, exact place and time of sampling or measurements;

- b. The name of the individuals who performed the sampling or measurements;
- c. The date and time the analyses were performed;
- d. The name of the individuals who performed the analyses;
- e. The analytical techniques or methods supporting the information such as observations, readings, calculations and bench data used;
- f. The results of such analyses; and
- g. Chain of custody documentation.

H. Transferability

This VWP permit may be transferred to a new permittee only by modification to reflect the transfer, by revoking and reissuing the permit, or by automatic transfer. Automatic transfer to a new permittee shall occur if:

- 1. The current permittee notifies the board within 30 days of the proposed transfer of the title to the facility or property;
- 2. The notice to the board includes a written agreement between the existing and proposed permittee containing a specific date of transfer of VWP permit responsibility, coverage and liability to the new permittee, or that the existing permittee will retain such responsibility, coverage, or liability, including liability for compliance with the requirements of any enforcement activities related to the permitted activity; and
- 3. The board does not within the 30-day time period notify the existing permittee and the new permittee of its intent to modify or revoke and reissue the VWP permit.

I. Property rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize injury to private property or any invasion of personal rights or any infringement of federal, state or local law or regulation.

J. Reopener

Each VWP permit shall have a condition allowing the reopening of the VWP permit for the purpose of modifying the conditions of the VWP permit to meet new regulatory standards duly adopted by the board. Cause for reopening VWP permits includes, but is not limited to when the circumstances on which the previous VWP permit was based have materially and substantially

changed, or special studies conducted by the board or the permittee show material and substantial change, since the time the VWP permit was issued and thereby constitute cause for VWP permit modification or revocation and reissuance.

K. Compliance with State and Federal Law

Compliance with this VWP permit constitutes compliance with the VWP permit requirements of the State Water Control Law. Nothing in this VWP permit shall be construed to preclude the institution of any legal action under or relieve the permittee from any responsibilities, liabilities, or other penalties established pursuant to any other state law or regulation or under the authority preserved by § 510 of the Clean Water Act.

L. Severability

The provisions of this VWP permit are severable.

M. Permit Modification

A VWP permit may be modified, but not revoked and reissued except when the permittee agrees or requests, when any of the following developments occur:

1. When additions or alterations have been made to the affected facility or activity which require the application of VWP permit conditions that differ from those of the existing VWP permit or are absent from it;
2. When new information becomes available about the operation or activity covered by the VWP permit which was not available at VWP permit issuance and would have justified the application of different VWP permit conditions at the time of VWP permit issuance;
3. When a change is made in the promulgated standards or regulations on which the VWP permit was based;
4. When it becomes necessary to change final dates in schedules due to circumstances over which the permittee has little or no control such as acts of God, materials shortages, etc. However, in no case may a compliance schedule be modified to extend beyond any applicable statutory deadline of the Act;
5. When changes occur which are subject to "reopener clauses" in the VWP permit; or
6. When the board determines that minimum instream flow levels resulting from the permittee's withdrawal of water are detrimental to the instream beneficial use and the withdrawal of water should be subject to further net limitations or when an area is declared a Surface Water Management Area pursuant to §§ 62.1-242 through 62.1-253 of the Code of Virginia, during the term of the VWP permit.

N. Permit Termination

After notice and opportunity for a formal hearing pursuant to Procedural Rule No. 1 (9 VAC 25-230-100) a VWP permit can be terminated for cause. Causes for termination are as follows:

1. Noncompliance by the permittee with any condition of the VWP permit;
2. The permittee's failure in the application or during the VWP permit issuance process to disclose fully all relevant facts or the permittee's misrepresentation of any relevant facts at any time;
3. The permittee's violation of a special or judicial order;
4. A determination by the board that the permitted activity endangers human health or the environment and can be regulated to acceptable levels by VWP permit modification or termination;
5. A change in any condition that requires either a temporary or permanent reduction or elimination of any activity controlled by the VWP permit; and
6. A determination that the permitted activity has ceased and that the compensatory mitigation for unavoidable adverse impacts has been successfully completed.

O. Civil and Criminal Liability

Nothing in this VWP permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and Hazardous Substance Liability

Nothing in this VWP permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under § 311 of the Clean Water Act or §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Unauthorized Discharge of Pollutants

Except in compliance with this VWP permit, it shall be unlawful for the permittee to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances;
2. Excavate in a wetland;

3. Otherwise alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, to animal or aquatic life, to the uses of such waters for domestic or industrial consumption, for recreation, or for other uses;
4. On or after October 1, 2001 conduct the following activities in a wetland:
 - a. New activities to cause draining that significantly alters or degrades existing wetland acreage or functions;
 - b. Filling or dumping;
 - c. Permanent flooding or impounding;
 - d. New activities that cause significant alteration or degradation of existing wetland acreage or functions.

R. Permit Extension

Any permittee with an effective VWP permit for an activity that is expected to continue after the expiration date of the VWP permit, without any change in the activity authorized by the VWP permit, shall submit written notification requesting an extension. The permittee must file the request prior to the expiration date of the VWP permit. Under no circumstances will the extension be granted for more than 15 years beyond the original effective date of the VWP permit. If the request for extension is denied, the VWP permit will still expire on its original date and, therefore, care should be taken to allow for sufficient time for the board to evaluate the extension request and to process a full VWP permit modification, if required.